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ABSTRACT

This report is based on a community forum convened on May 15, 1991, in Twin Falls, Idaho, to obtain information and views on public education in Idaho; its impact on minorities; and, specifically, the high dropout rate of Hispanics, its causes, and possible solutions. Chapter 1 gives the background of a 1979 lawsuit filed by the Idaho Migrant Council against the Idaho State Board of Education. The lawsuit was settled in 1983 when the defendant agreed to implement plans to meet the needs of students with limited English proficiency. However, the state advisory committee to the U.S. Commission on Civil Rights continued to receive complaints alleging a lack of such educational programs. Demographics show that Hispanics are the largest non-White group in Idaho. Chapter 2 consists of summaries of forum presentations by the state superintendent of instruction, local superintendents, principals, teachers, university staff, corporate education and training experts, the director of education for the state correctional institution, and private citizens. The participants addressed the issues of language and cultural differences affecting Hispanics; the urgent need for bilingual, bicultural staff at all levels of education; and the need for a smarter well-educated work force for industry in Idaho. Chapter 3 includes a summary of 24 recommendations proposed by persons appearing before the Idaho Advisory Committee. Appendix A consists of the consent decree and settlement agreement in the aforementioned lawsuit. (TD)

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Public Education in Idaho—Does It Meet the Needs of All Students

Idaho Advisory Committee to the
U.S. Commission on Civil Rights

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RC 021061

A Summary Report

November 1992

This summary report of the Idaho Advisory Committee to the United States Commission on Civil Rights was prepared for the information and consideration of the Commission. Statements and viewpoints in the report should not be attributed to the Commission or the Advisory Committee, but only to individual participants in the community forum where information was gathered.

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The United States Commission on Civil Rights

The United States Commission on Civil Rights, first created by the Civil Rights Act of 1957, and reestablished by the United States Commission on Civil Rights Act of 1983, is an independent, bipartisan agency of the Federal Government. By the terms of the 1983 act, the Commission is charged with the following duties pertaining to discrimination or denials of the equal protection of the laws based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to discrimination or denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to discrimination or denials of equal protection of the law; maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

The State Advisory Committees

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 and section 6(c) of the United States Commission on Civil Rights Act of 1983. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observeers, any open hearing or conference that the Commission may hold within the State.

Public Education in Idaho—Does It Meet the Needs of All Students

Idaho Advisory Committee to the
U.S. Commission on Civil Rights

A Summary Report

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Letter of Transmittal

Idaho Advisory Committee to the
U.S. Commission on Civil Rights

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Carl A. Anderson
Mary Frances Berry
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Russell G. Redenbaugh

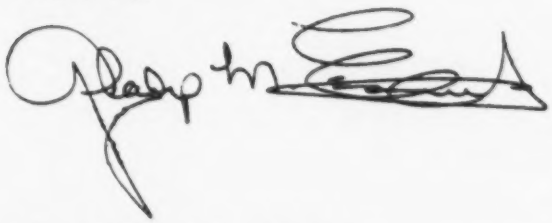
Wilfredo J. Gonzalez, *Staff Director*

Attached is a summary report of the Idaho Advisory Committee based on a community forum convened by the Committee on May 15, 1991, in Twin Falls. The purpose of the forum was to obtain information and views related to public education in Idaho, its impact on minorities and, specifically, the high dropout rate of Hispanics, its causes and possible solutions. At this forum, the Advisory Committee heard from the State superintendent of instruction, local superintendents, school principals, classroom teachers, university staff, industry education and training experts, and the director of education for the State correctional institution.

The participants addressed the issue of language and cultural differences of Hispanics and the urgent need for bilingual, bicultural staff at all levels of the education process, and those from the private sector spoke of the need for a smarter well-educated work force to meet the needs of industry in Idaho.

The Advisory Committee voted unanimously (8-0, 3 vacancies) to submit this summary report to the Commissioners and indicated that it is its intention to continue monitoring the educational system in Idaho.

Respectfully,



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Idaho Advisory Committee

Idaho Advisory Committee to the U.S. Commission on Civil Rights

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The Idaho Advisory Committee wishes to thank staff of the Commission's Western Regional Office for its help in the preparation of this summary report. The project was the principal assignment of Arthur Palacios. Support was provided by Grace Hernandez and Priscilla Lee-Herring. The project was carried out under the overall supervision of Philip Montez, Director, Western Regional Office.

Table of Contents

Chapter 1
Introduction 1

Chapter 2
Presentations
Jerry Evans, Superintendent of Public Instruction for Idaho 4
Dr. Trudy Anderson, Administrator, State Division of Vocational Education 4
Sam Byrd, Chair, Southwest Idaho Private Industry Council 5
Anita Brunner, Consultant, Department of Education 6
Joe Youren, Principal, Pershing Elementary School, Rupert 6
Irene Chavolla, Teacher, Emerson Elementary School, Idaho Falls 7
Becky Otero, Teacher, Pocatello 8
Imelda Gomez, Teacher, Rupert 8
Raymundo Pena, Attorney, Rupert 8
Sally Pena, Assistant Professor, Idaho State University 9
Angela Lucky, Coordinator, League of Schools 9
Grace Rivera, Home School Coordinator, Wilder 10
Arnoldo Hernandez 10
Norman Hurst, Superintendent, Burley 10
Dr. Terrell Donicht, Superintendent, Twin Falls 11
Joan Dilweg, Director, Drop-out Prevention, Pocatello 11
Cecil Ward, Boise Cascade Corporation, Burley 12
Linda Langer, Ore-Ida Foods, Burley 12
Judy Duncan, School Supervisor, Idaho State Correctional Institution 13

Chapter 3
Summary 14
Summary of Recommendations Proposed by Persons Appearing Before the Idaho Advisory Committee 15

Appendix A
Idaho Migrant Council, Inc., v. Board of Education, No. 79-1068 (D. Idaho Feb. 23, 1983) (consent decree). 16

Chapter I

Introduction

The Idaho Advisory Committee[1] to the U.S. Commission on Civil Rights has, through time, received complaints concerning the high dropout rate of Hispanics in public schools in the State. Although some estimates suggest an 80 percent dropout rate, the State department of education, prior to 1991, did not collect data from which accurate calculations of dropout rates could be derived. The Advisory Committee decided, at its planning meeting of June 8, 1990, that it would conduct an open public forum and invite representatives from the education community at large and interested parties to provide the Committee with information and views pertaining to public education in Idaho, more specifically, the causes of the alleged high dropout rate of Hispanics and possible solutions to this problem.

The open forum was held May 15, 1991, in Twin Falls, and 22 individuals appeared before the Advisory Committee to present information on educational issues.[2] A transcript of the proceedings[3] was taken and this report provides a summary of the presentations.

Background

In April 1979 the Idaho Migrant Council filed, in the United States District Court of Idaho, an action against the Idaho State Board of Education.[4]

The council sought an "injunction and declaratory judgement that the defendants are obligated to devise and cause to be implemented in each school district with limited English proficiency students, a uniform, comprehensive and appropriate program of instruction which ensures equal participation by all such students in the public school system."

In February 1983 the plaintiffs and defendants entered into a settlement agreement and stipulation for dismissal. The defendants agreed:

- to identify limited-English proficiency students.
- that school districts would develop and submit to the State plans to meet the needs of limited-English proficiency students.
- that the Idaho State Department of Education would monitor the implementation of the district plans.
- that the districts would submit an annual report to the State department of education.[5]

Humberto Fuentes, executive director, Idaho Migrant Council, said, "The consent decree was a compromise and the Migrant Council was not completely happy with it, but funds were exhausted and we could not proceed. Our major problem was the lack of a designated, independent monitor."[6]

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1 The Commission is mandated by Congress to have State Advisory Committees (SACs) in all States and the District of Columbia. These 51 Federal advisory bodies advise the Commission of civil rights issues within their States.

2 Participants included: Jerry Evans, Idaho superintendent of public instruction; Dr. Trudy Anderson, administrator, State division of vocational education; Sam Byrd, chair, Southwest Idaho Private Industry Council; Anita Brunner, consultant, U.S. Department of Education; Joyce Farris, parent, Glenns Ferry, Idaho; Joe Youren, principal, Pershing School, Rupert, Idaho; Irene Chavolla, teacher, Emerson School, Idaho Falls; Becky Otero, teacher, Pocatello; Imelda Gomez, teacher, Rupert; Raymundo Pena, attorney, Rupert; Sally Pena, assistant professor, Idaho State University; Angela Lucky, coordinator, League of Schools; Grace Rivera, home school coordinator, Wilder, Idaho; Arnoldo Hernandez, resident, Rupert; Norman Hurst, superintendent, Burley, Idaho; Dr. Terrell Donicht, superintendent, Twin Falls; Joan Dilweg, director, Drop-Out Prevention, Pocatello School District; Cecil Ward, Boise Cascade Corporation, Burley, Idaho; Linda Langer, Ore-Ida Foods, Burley; Judy Duncan, school supervisor, Idaho State Correctional Institution; Janie Ortiz, tutor coordinator, College of Southern Idaho; Liza Sanchez, student, Boise State University. In addition to these presentations, Goldie McClure, principal, Acequia School District, submitted a written statement.

3 Public Community Forum on Education Issues in Idaho, Idaho Advisory Committee to the U.S. Commission on Civil Rights (USCCR), Twin Falls, Idaho, May 15, 1991. The complete transcript of the proceedings is on file in the Western Regional Office, USCCR, Los Angeles, California. Unless otherwise noted, all quotes and presentations cited are from this transcript.

4 The initial charge was not included in the materials provided to OGC.

5 Idaho Migrant Council, Inc. v. Board of Education, No. 79-1068 (D. Idaho Feb. 23, 1983) (consent decree).

6 Humberto Fuentes, executive director, Idaho Migrant Council, telephone interview, Sept. 4, 1992 (hereafter cited as Fuentes inter-

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Despite this consent decree, the Advisory Committee continued to receive complaints alleging a lack of educational programs for minorities in general and limited- or non-English-speaking students, in particular.

Demographics

According to the Bureau of the Census, U.S. Department of Commerce, Idaho had a total population of 1,006,749 in 1990.[7] The 1990 population in Idaho included: 950,451 white (94 percent); 3,370 black (0.3 percent); 13,594 Native American (1.4 percent); 52,927 Hispanic (5.3 percent); 5,695 Asian (0.6 percent); and 31,918 other (3.2 percent).[8]

There are 113 school districts in the State of Idaho.[9] In 1988 there were 215,000 students enrolled in regular school programs, kindergarten through grade 12 (k-12).[10] Maryann Highland, State department of public instruction, reported 225,680 students in K-12 in the 1990-91 school year.[11]

The State does not maintain statistics on the ethnicity of students. According to Lindy High, public information officer, State department of public instruction, "the State does not collect this data now."[12] According to Ms. High, the department attempted to collect this data during the last school year, but the data submitted by the school districts was incomplete. She believed that the questionnaire used by the department to solicit ethnic information from the school districts was inadequate. The department planned to revise the questionnaire and send it to districts in the future.[13] Patricia Yates, conciliator, Office for Civil Rights (OCR), U.S. Department of Education, Seattle Regional Office, told Commission staff that "OCR did not have that data and if it had it would get it from education officials in Idaho." The Advisory Committee could not obtain statewide data regarding the ethnicity of students in Idaho. However, the Census Bureau does compile ethnic data by age category, and in 1990 the school age population for Idaho totaled 260,628. Table 1 provides a breakdown of the students ages 5-18.

TABLE 1
Idaho School Age Population, 1990

White	227,698	93.29%
Black	870	0.35
American Indian	3,939	1.61
Asian	2,398	0.98
Hispanic	16,569	3.75
Other	9,154	6.78

Source: U.S. Department of Commerce, Bureau of Census, 1990 Census Population and Housing, summary tape 1A.

The four State institutions of higher education in 1991 had a total of 35,728 students.

view).

7 Edith R. Hornor, editor, *Almanac of the 50 States*, (Palo Alto, Calif.: Information Publications, 1992) pp. 99-100. (hereafter cited as Almanac).

8 Almanac.

9 Maryann Highland, State department of public instruction, telephone interview, Aug. 24, 1992 (hereafter cited as Highland interview.)

10 Almanac, p. 101.

11 Highland interview.

12 Lindy High, public information officer, State department of public instruction, telephone interview, Aug. 24, 1992 (hereafter cited as High interview).

13 High interview.

The ethnicity of the student body is provided by table 2.

TABLE 2
Enrollment at Idaho's Colleges and Universities, 1991

White	31,309	87.63%
Black	237	0.66
American Indian	363	1.02
Asian	509	1.42
Hispanic	716	2.00
Other	1,825	5.10

Source: Jerry Engstrom, Idaho State Board of Education, letter titled, "Enrollment at Idaho's Colleges and Universities," Aug. 25, 1992.

The Idaho State Department of Education has "collected, aggregated, analyzed and published data on the State's limited-English proficient (LEP) students since 1983,"[14] the year that the consent decree went into effect. In its evaluation of programs for limited-English proficient students, the State department of education noted that its "initial home language survey identified students from 34 non-English language groups [with] 3,877 students in 1989 and 5,480 [a year later]."[15] "The largest language group was Spanish with 4,687, which is 85 percent of the total number of students from non-English backgrounds,"[16] the report noted.

14 Karen Underwood, supervisor, compensatory education, and Anita Brunner, consultant ESL/bilingual education, Evaluation of Programs for Limited English Proficient Students, Fiscal Year 1990 (School Year 1989-1990), Idaho State Department of Education, Boise, Idaho, p. 1.

15 Ibid.

16 Ibid.

Chapter II

Presentations

Jerry Evans

Superintendent Jerry Evans[1] prefaced his remarks by stating that the public school system in Idaho is not meeting the needs of all of its pupils, particularly Hispanic students. Recent studies by three task forces have pointed out problems with the educational process in Idaho and have made suggestions and recommendations to eliminate these problems.

The Task Force on Hispanic Education indicated that dropout rates for Hispanic students are somewhere between 40 and 60 percent. Mr. Evans believed this figure was probably accurate. The State does not collect data on dropouts, but its rough estimate for the overall population is about 20 percent.

A recent internal study conducted by the State department of public instruction indicated that the staff believed that there is a strong need to collect data on the ethnicity of students. The State bureau of finance is currently developing a student tracking system, as a result of the study, which will identify students by ethnicity. They will be identified by grade enrollment at the elementary level and by class enrollment at the secondary level.

The Task Force on the Future of Education in Idaho made some suggestions on improving school conditions for Hispanic students. Among these were adding Hispanic counselors to the high school counseling programs, improving outreach programs for children and their families, establishing programs to recognize culture and language diversity, and establishing alternative routes to graduation for students who do not fall into the typical 4-year pattern.

The State superintendent's office can advise, request, prompt, and suggest, but as a practical matter, many of the needed changes must start and be implemented at the local school district level, Mr. Evans noted.

Idaho's constitution has strong language pertaining to education. It refers to the duty of the legislature to establish and maintain a general uniform and thorough system of common schools. It spells out a very affirmative duty on the part of the legislature; however, the code delegates much of the responsibility and authority to local school boards.

The State is now involved in a lawsuit that focuses on the definition of the words "uniform," "thorough," and "system" to determine how they relate to the schools of Idaho today, which have a wide disparity in terms of revenue available per pupil and services that are provided for children.

About 75 percent of the revenue that flows into the school districts for their operating budgets comes from State appropriated funds, according to Mr. Evans. This amounts to approximately $500 million statewide, of which approximately $30 million comes from the Federal Government.

In terms of student performance, the State is in the process of developing a goals and assessment committee that will formulate what the State expects in terms of student performance, what every student should know and be able to do, and the habits and attitudes they should have as a result of having been educated through the Idaho school system.

Trudy Anderson

Dr. Trudy Anderson[2] repeated that the State board of education appointed a task force in 1989 to study the dropout rate of Hispanics. The first item that the task force agreed on was that if the dropout rate among the general population is 25

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1 Jerry Evans has been the superintendent of public instruction for the State of Idaho for the past 12 years. Mr. Evans is elected to work with a State board of education that formulates policy for all public education in Idaho, including postsecondary education and regency duties at the University of Idaho.

2 Dr. Trudy Anderson is the administrator of the Idaho State Division of Vocational Education which works with public schools and

percent (and that is not good), the dropout rate above that for a particular ethnic group is very significant and must be addressed.

The task force concluded that by the year 2000, the Hispanic population in Idaho is expected to double in size and the need for available workers in the State to perform many of the new jobs that are currently being developed will also increase. It will not be a question of whether it is right to provide equal opportunities for all of the students; it will be an economic necessity that the State provide educational opportunities to all of its future work force, stated Dr. Anderson.

Although Idaho has not maintained data on the general student population in public schools, it has for many years done so for students who participate in vocational education programs. It has collected data on the ethnicity, gender, handicapping conditions, and other information on vocational students.

Dr. Anderson added that the data indicate that compared to the population at large, Hispanics tend to participate less in vocational education. Most vocational education programs in high school consist of home economics, business and office education, and agriculture science and technology, offered usually at junior and senior levels. By this point, many minority students may have already left the system.

The job market in Idaho is expanding at a rate faster than adjacent States with larger populations. In 1989 three times as many jobs were created in Idaho as were created in Oregon, a State with three times the population of Idaho. Many of these newly created jobs are in the food processing industry, which today requires more technical skills than was required in the past. Electronic companies such as Hewlett-Packard and Micron Technology need skilled technicians, preferably at the 2 year associate degree level. This presents a very real problem. If the State is not getting students through high school, it is certainly not going to be getting them through technical programs at the post-secondary level. The State has funded two programs this year through vocational education, one in Nampa, just south of Boise, and one in Wilder, 40 miles west of Boise. These are pilot projects with a major focus on dropout prevention. The information gathered from these programs will then be shared with other school districts throughout the State, according to Dr. Anderson.

The State must also look to programs such as Job Opportunities and Basic Skills (JOBS)[3] and the Job Training Partnership Act (JTPA) as vehicles to develop working partnerships between educational systems and industry.

The U.S. Congress has recently made major revisions in the Carl D. Perkins Vocational Applied Technology Education Act.[4] The program has shifted from improving vocational education programs in general to services to special population students in vocational education. In the area of agriculture science and technology, only 4 percent of the students are Hispanic. Dr. Anderson believed that students who come from a migrant worker background do not care to remain in agriculture and do not realize that agriculture is more than weeding and picking. There is a need to communicate this to students and particularly to parents. In the area of marketing education, 5 percent of the student enrollment is Hispanic. Unfortunately, only 1 percent of the students in health occupations are Hispanic, and in data processing the enrollment is 2 percent. Enrollment in general business and office education is 5 percent and in trade and technical education, 7 percent. The percentage is much higher for subjects such as welding and auto mechanics and much lower in electronics. This seems to indicate that there is a need for earlier and better career counseling and a need to get more information to young people earlier in order to motivate them to stay in school.

Sam Byrd

Sam Byrd[5] told the Committee that the report and the recommendations of the task force on the

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postsecondary vocational technical schools.

3 Funded by the Idaho Department of Health and Welfare with funds from the U.S. Department of Health and Human Services.

4 20 U.S.C. §§ 2301-2471 (1988).

5 Sam Byrd is the chair of the Southwest Idaho Private Industry Council and was the chair of the task force on the Participation of Hispanic Students in Vocational Education.

Participation of Hispanic Students in Vocational Education were developed as part of a series of meetings held all over the State with Hispanic parents and students. The report, "Hispanic Youth-Dropout Prevention" was published in both English and Spanish and distributed to everyone who had participated in the forums because of the need to convince them that their comments and recommendations were important to the task force. It was realized that in order to implement the recommendations, partnerships had to be formed.

During the formulation of the report, the most controversial subject was language instruction. It was agreed that foreign language study should begin in kindergarten, and where the Hispanic student population exceeded 5 percent the language should be Spanish. An example of such a program was the demonstration project at the Glenns Ferry School District,[6] located between Twin Falls and Boise. Anglo children were learning to become proficient in Spanish, and Hispanic children were becoming proficient in English. The task force concluded that the three most important areas that should be implemented are: language programs similar to the Glenns Ferry model, a formal plan for parent involvement, and recruitment of bilingual Spanish-speaking staff, including counselors.

Anita Brunner

Anita Brunner[7] told the Committee that Idaho does not have State curriculums for bilingual education and English as a Second Language (ESL). The main function at the State level is to monitor local programs and provide technical assistance to them. Each fall the districts submit an education plan for their limited-English proficient students. The department determines if the plan shows proper English language development and access to the curriculum. The districts can either provide access to the curriculum through the native language or through the ESL strategies in the content area. There are many strategies according to Ms. Brunner that show that cooperative learning, peer tutoring, and what is referred to as sheltered English are effective, and children can acquire language through content area.

In 1991 training was provided for secondary teachers because the department was concerned about the high dropout rate. Secondary teachers were found to be less aware than elementary teachers of how to successfully include second language students in their classrooms. In 1992 training efforts will focus on administrators because teachers claimed that they need more support for the program from their principals.

During the year each district is visited to determine if its plan is being implemented properly, Ms. Brunner continued. When weaknesses are discovered, State office staff meet with district personnel and develop a staff development plan, tailored to meet their particular needs. In this plan, staff includes some cultural background, knowledge on language acquisition, and how teachers can adopt their strategies to include these students.

In the spring the school districts turn in an assessment of their program, and this information is compiled into an evaluation report by an outside evaluator.

Joseph Youren

Joseph Youren[8] stated that he is a new administrator and 1991 was his first year as a principal. He supervises a school with a student population of 325, of whom 40 percent are Hispanic. Mr. Youren stated that he did not pretend to speak for his community, for the area, or for his district, but only for himself.

He agreed with State Superintendent Evans that Idaho's problem with education as it relates to the dropout rate is a direct outcome of the experiences that children have in schools. Successful students do not drop out; students who repeatedly experience failure drop out of school.

The system must begin with a fundamental change in its perception of the Hispanic community and the migrant populations. Society and the

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6 The Seattle Regional Office of the Office for Civil Rights is presently conducting an investigation of the Glenns Ferry School District in response to complaints by parents alleging discriminatory practices affecting Hispanic students.

7 Anita Brunner is a consultant to the Idaho State Department of Education.

8 Joseph Youren is the principal at Pershing Elementary School in Rupert, Idaho.

educational community in particular seem to lose sight of the fact that the terms, "migrant" and "Hispanic" are not necessarily interchangeable. Because there are federally funded migrant programs, it is often believed that implementation of these programs is sufficient. This is not true, he added. The district must make certain that all children come to school ready to learn. It is difficult for any child to learn if his or her basic physical needs have not been met. Affordable housing is needed to allow Hispanic families basic dignity and the comfort that comes from having a home. Children who must sleep on floors or in garages are not well-rested and not ready to learn. Four-room housing for two or three families does not allow for studying or learning at home. Parental involvement is difficult if both parents must work, and many Hispanic parents must work more than one job.

Early childhood education is probably the strongest program to assist the Hispanic population, he continued. Head Start and similar programs offer tremendous advantages to those students who can participate. These programs have been proven to work and should be expanded.

Spanish-speaking teachers are needed desperately, and the Spanish-speaking aides are probably the first source for Spanish-speaking teachers if the State has the funding and the programs to encourage them to become teachers.

Year-round schools would offer more flexibility for students and provide greater opportunities for continuous progress. It would help schools to avoid the pitfalls of retention, which have been shown to be a serious contributory factor to at-risk behavior and dropout rates, Youren stated.

Relying on graded school systems, particularly at the primary level, forces teachers and administrators into pass/fail decisions without any acceptable alternative. Ungraded schools would allow for more appropriate individual placement, instruction, and decisionmaking.

In terms of solutions, reforms that truly effect changes are those that affect the individual classrooms. Top down direction, regulation, and guidelines can help, but they generally do not produce meaningful change.

The system must encourage Hispanics to become involved in education at every level, but in particular, Spanish teachers are needed who are literate in both languages and can provide appropriate role models for all students. Placing emphasis on school choice and national standardized testing are misguided at best and are likely to result in disaster. The concept of choice of schools will erode support for public schools and may also lead to stratification by economic class and a widening gap between the educational haves and have nots.

American students are probably the most overly tested students in the world and standardized tests have never been shown to increase student achievement, Youren maintained. Adding another layer at the national level would only produce another round of education bashing and inflammatory rhetoric, he concluded.

Irene Chavolla

Irene Chavolla[9] stated that she believed that one of the major problems in the schools was the lack of cultural awareness on the part of teachers. They impart negative feelings to children without realizing that they are doing it. For example, they speak of the four basic food groups; however, if you are poor and Hispanic, you may get only beans and tortillas for breakfast. If you speak about visiting the zoo or vacationing in Yellowstone Park, Hispanic children have probably never had these experiences.

Of Hispanic descent, Ms. Chavolla is able to communicate with Spanish-speaking children, but she is the only Hispanic teacher in Idaho Falls. Children in Idaho Falls who do not speak English get a session with a migrant tutor three times a week for 20 minutes per session. This is not nearly enough, stated Ms. Chavolla.

The bottom line is that many situations that Hispanic children encounter at school are related to cultural differences and unless teachers begin to realize that these differences exist and begin working with them, they will always view Hispanic children negatively.

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9 Irene Chavolla is a teacher at Emerson School in Idaho Falls, Idaho.

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Becky Otero

Becky Otero[10] agreed that cultural differences and sensitivity to economic conditions must be part of the training for teachers and administrators. She stated that a principal had once told her that, at the dinner table, his family talks about education and she responded by saying:

> That's fine for you and your family. But when you have a family of eight children and you have to go out and hoe beets and there is no restroom facility, and there is no type of protection from the elements, the furthest thing from your mind is how was your school today. It doesn't mean that you are not interested in education; it just means that, realistically, you just have more pressing issues on your mind.

Ms. Otero told the Committee that sometimes people tell her that she is much too aggressive and that she offends people. She replied that it is about time they are offended; it is about time that people understand that the Hispanic population is growing and whether they believe in English as a second language or bilingual education, or not, doesn't matter. If the number of Hispanics continues to increase, the system will be forced to make changes to accommodate this growing population, which should have a positive effect on everyone. She believed that a continuing problem in the schools is the lack of Hispanic teachers and one of the reasons for that is salary. After going to college for 4 years, who wants to go into a profession for $18,000 a year when you know you can make more in the private sector? Her brother just finished college a couple of years ago, and she encouraged him to become an educator. He replied:

> What for? You come home crying sometimes; you have parents calling you at 5:00 and 7:00 and 8:00 at night. You have all kinds of meetings to go to, you have to talk to the principal, to the director of elementary education at times and to parents and sometimes the superintendent. Who wants all that?

She recommended that in the future, when State committees that might have an impact on education are formed, classroom teachers should be part of that process and be placed on these committees.

Imelda Gomez

Imelda Gomez[11] told the Committee that she wanted to share a part of her personal life and thought that maybe it might shed some light on why some people drop out of school. When she was 9 years old she came from Mexico and was placed into a first grade classroom where everything was taught in English. She didn't know the language and everything was foreign to her. She was lost, confused, and sad. She struggled so much that at age 16, she dropped out. It has been 24 years since she dropped out and now that she is inside the system, she believed that what happened to her is still happening to many Hispanic students. Things should be changing and she did not believe that they were. She believed that the solution lies with transitional bilingual programs so that Hispanic students can be taught in the language that they already know and make a transition into the English language. Ms. Gomez believed that the problem is lack of money and lack of staff but that is something that needs to be addressed and then, perhaps, the dropout rate will begin to show some improvement.

Raymundo Pena

In the summer of 1978, when Raymundo Pena[12] was in college, he conducted an independent research project funded by a grant from the Lenox Foundation that tracked Hispanic children who started school in the first grade in 1964, 1965, and 1966 in the Caldwell/Nampa area, close to Boise. He attempted to determine how many of the Hispanic children who began school in this period (his contemporaries) dropped out. He conducted his study with the assistance of the Idaho Migrant Council and determined that 88 percent of his target group had dropped out of school in that area of Idaho. At that time no one at the State level

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10 Becky Otero is a teacher in Pocatello, Idaho, and a board member of the Idaho Education Association. She has taught for 16 years and until recently was the only Hispanic teacher in the Pocatello district. About 3 years ago, a second Hispanic teacher was hired, and they remain the only two Hispanics in the Pocatello school system.

11 Imelda Gomez is a kindergarten teacher in Rupert, Idaho.

12 Ray Pena is an attorney in private practice in Rupert, Idaho.

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knew what the dropout rate was. Twelve years later the Governor appointed a task force that discovered that the statewide dropout rate for Hispanics was 66 percent.

During his 1978 study, Mr. Pena tracked the students who did graduate and found that only 3 percent of the original group went to college. He was the only one to enter graduate school.

Mr. Pena comes from a home where his father finished the first grade and his mother did not attend school. His father was well read and encouraged him to get an education. He told him: "You can make money; you can have a position of power. And, if you do something wrong, you can lose it. But you can never lose an education. Once they give it to you; once you take it: it's yours forever.

Mr. Pena stated that there was nothing special about him. He was an average student in elementary school. When he realized that he wanted to be an attorney, he knew he had to get his grades up so he worked harder. He believes that as a society, we send out the wrong message when we believe minority professionals to be something special. We must develop an atmosphere that allows all children to believe that they can become lawyers, doctors, chemists, and accountants.

When Mr. Pena was in high school, his counselor asked him what he wanted to be and he said that he wanted to be a lawyer. She told him that he did not have the skills to become a lawyer, so he responded by asking that she teach him the skills necessary to become a lawyer, saying, "When I came to the first grade, I didn't know how to read. I couldn't speak English. You taught me how to read. You taught me to speak English, now teach me what I need to become a lawyer."

Sally Pena

During her studies, Sally Pena[13] learned that as early as age 3 or 4, minority children have become aware of the negative attitudes that society has about their culture. A 1950s study, the Clark and Clark Doll Study (using young black children and young white children), showed that the young black children had already developed a preference for being white, mirroring society's prejudices, and already knew that it was preferable, that there was more privilege in being white. Studies since that time have further substantiated the Clark and Clark Doll Study. In fact, studies also show that as early as age 11, not only have young people picked up society's biases and prejudices, but those attitudes crystallize and do not change much after age 11.

She stated that because of these findings, bias and prejudice are issues that must be addressed in the public schools, and that there may be some prejudice underlying what is going on in schools, what is happening to children, and why they are dropping out of school.

Ms. Pena studied with Louise Sterman Sparks in Pacific Oaks, California. Ms. Sparks has developed an antibias curriculum for early childhood teachers, that addresses issues such as getting along with each other and dealing directly with issues of bias in the classroom. It also helps teachers formulate strategies for classroom discussions about race and differences, for bringing them out into the open, and making them appropriate classroom topics. She believes that starting with very young children, helping them to talk openly about how they are different, why they are different, and what difference this makes is critically needed. Teachers need to become aware of this type of approach and then learn to use this in the classroom, she added. It will not change overnight, but there is a need to begin as quickly as possible, she concluded.

Angela Lucky

Angela Lucky[14] stated that the purpose of the Bridging the Gap committee, a university committee made up of faculty, students, and community members from Pocatello, is to attract and keep Hispanic students in the university until they graduate. The committee is also developing a report with some general recommendations, one of which is that the university should adopt an institutional position with regard to fostering and respecting diversity and publicize that position to all members of its constituency. Other recommendations

13 Sally Pena is an assistant professor of early childhood education within the department of education at Idaho State University.

14 Angela Lucky is the coordinator of the League of Schools, a 16 school district consortium formed to facilitate staff development. She also serves on Bridging the Gap.

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include ideas for helping the schools better prepare minority students for college, including providing them with information on which classes are required, financial assistance, scholarships available and support services and organizations on campus that can assist them.

Ms. Lucky is also a member of the Multi-Cultural Education Committee, whose purpose is to develop techniques by which the university can better prepare teachers to teach minority children. The committee has developed an 18 hour component to use in sociology, history, anthropology, and English courses that will give students an awareness of minority issues.

The Idaho State University chapter of Phi Delta Kappa, a national fraternity for educators, is conducting a research project on students at risk. The project includes a study on ethnicity as a factor in teacher-student interaction patterns and academic risk, focusing specifically on Hispanic and Indian students. There are currently several graduate students at the university financed by scholarships from the Idaho School Administrators Assistance Centers Project, who are enrolled in an administrative degree program. Unfortunately for Idaho, noted Ms. Lucky, one of the recent Hispanic graduates accepted a position in Washington State.

Grace Rivera

According to Grace Rivera[15], the Wilder School District has 477 students, 74 percent of whom are Hispanic. The dropout rate is a major concern of Ms. Rivera. She stated that each May, migrant children try to enter school as they arrive in the area and many of them are turned away. She overheard the secretary at the high school tell a small group of migrant students to just go to work because there were only 3 more weeks of school left. Ms. Rivera told the secretary that there is a dropout problem in the district, and she was not helping the situation by turning kids away.

Housing in Wilder is also a major problem. Many of the migrants live in labor camps, and residency in the camps depends on their working on the farms. This creates a great deal of uncertainty and insecurity and, as a result, there is a negative impact on the attendance of migrant children and on their educational progress. Ms. Rivera is the chairperson of the Parent Advisory Committee, which has a monthly meeting attendance of between 55 and 60 people. The committee is attempting to convince the superintendent that it would be more beneficial to the Hispanic students if the resource personnel came into the classroom to work with the students rather than having the students leave the classroom.

Ms. Rivera feels that the only time the district thinks about Hispanics is during Cinco de Mayo and the taco feed. That's when they need the Mexicans to cook for everyone, she told the Advisory Committee.

Arnoldo Hernandez

Arnoldo Hernandez[16] made a short presentation in Spanish and then repeated it in English. When he began school in Idaho, he related, he started out in an English-only classroom where he understood nothing. He preferred to stay home with his parents or to go to work with them, because he did not like to sit in the classroom all day listening to people speak a foreign language he did not understand. He stated that he believed the best way to teach students is in their language first, and then transition them into English.

He concluded his presentation by asking how many in the audience would sit around and listen to someone speak Spanish all day long for 300 days.

Norman Hurst

Norman Hurst[17] said that at the Burley Junior High, 18 percent of the students are Hispanic; 12 percent of the students at Burley High School are Hispanic. Mr. Hurst stated that the number of Hispanic students has grown significantly over the past 2 years. In 1990 the school district had 666 Hispanic students; in 1991 there were 834 Hispanic students. The Hispanic dropout for those 2 years

15 Grace Rivera is a home school coordinator with the Wilder School District.

16 Arnoldo Hernandez is a private citizen who went through the education system in Idaho.

17 Norman Hurst is the superintendent of schools in Burley, Idaho.

was 55 percent and 51 percent, respectively. In an attempt to lower the dropout rate, the district adopted more vocational education classes, but that did not seem to have any effect on the problem, he noted.

The district has submitted a proposal to the State department of education for funding under the Carl D. Perkins Vocational and Applied Technology Education Act to develop a program for at-risk students.

The district has attempted to recruit bilingual teachers from colleges throughout the southwest. When district staff approach teaching candidates at the colleges and universities they find it very difficult to attract them to relocate to Idaho, particularly with the noncompetitive Burley salary schedule.

The district has now developed a teacher training program in conjunction with Idaho State University and with partial funding by a Federal Government grant. Bilingual/bicultural aides were hired and a salary schedule was developed to encourage the aides to receive more education. Each 6 hours of college credit gave them a $15 per month pay increase. Some classes were offered by the university on-site at the school district, and aides were released at 2:00 to attend these classes. Through that program, 22 people graduated from Idaho State University. Unfortunately for Idaho, upon graduation some of them, accepted positions in California, Arizona, and Texas. Mr. Hurst believed that more Federal monies could be used to fund additional programs, such as the one developed in Burley, as a method of acquiring more bilingual teachers.

Terrell Donicht

Terrell Donicht[18] told the Committee that Twin Falls has 6,800 students, approximately 8 percent of whom are Hispanic. There are a higher number of Asians and Eastern Europeans in Twin Falls than in other Idaho cities, because it is one of two cities in Idaho where immigrant refugee centers are located.[19]

Twin Falls has a bridge program where Hispanic students from the College of Southern Idaho serve as role models for Hispanic students and parents at the junior high school in an attempt to form a communication link between the school and the home.

Funding for education in Idaho is a major problem, according to Mr. Donicht. In Twin Falls schools about $2,200 is expended per child per year, whereas the national average is $5,000. Idaho is 45th out of 50 States in per pupil spending. Mr. Donicht stated that they do not spend enough money on all the children, let alone on minority kids. The State legislature, since 1976, has not funded a single education appropriation for minority students except for 10 or 12 scholarships in 1990. He stated that the appropriation in January 1991 did not reflect a high priority for minority education or education in general. School programs are very segmented. For example, the elementary curriculum includes McDuff the Dog, fire safety, bicycle safety, seatbelts, health education, AIDS education, substance abuse, multicultural education, vocational education, and many more areas of study. Since the curriculum is so fragmented, Mr. Donicht stated that he was not sure that the schools could do what they are supposed to do, which is teach the basic skills. He believed that society needs to redefine what it expects public schools to achieve and help to focus on these goals, rather than attempting to teach those matters that should be taught in the home, the church, or elsewhere.

Joan Dilweg

Joan Dilweg[20] is the director of a dropout prevention program funded by the National Education Association (NEA). The first year's funding supported a reentry program at Pocatello High School. The students met once a week for 3 hours, and they received an elective credit for this activity. The classes consisted of self-esteem and computer training, preparing job applications, and resume writing. The following year, additional funding was received and the program was ex-

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18 Terrell Donicht is the superintendent of schools in Twin Falls, Idaho.

19 The other refugee center is located in Boise, Idaho.

20 Joan Dilweg is a classroom teacher in the Pocatello School District and a member of the adjunct faculty at Idaho State University.

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panded to include Highland High School, Hawthorne Junior High School, and Tyhee Elementary School.

The program at Highland High School included tutoring in English and math, because that is what students said they needed. At the junior high, the program focused on study skills and self-esteem, while at the elementary school, the program focused on self-esteem and reading.

Last year the Roosevelt School, a school for special students, began a teen parenting program for young girls in the 7th through 12th grades and a Montessori preschool program for the young children of these students.

One of the major concerns expressed by Ms. Dilweg related to national testing, particularly the Scholastic Aptitude Test (SAT) and the American College Testing (ACT) tests. She claimed that these tests contained biased questions and which should be removed because she believed that they affect minority students in a negative manner.

Cecil Ward

Cecil Ward[21] stated that he believed the most disturbing thing today about students in general is their total lack of understanding of the changes that have taken place in industry. Motorola has written a pamphlet titled "The Crisis in American Education" because the company is concerned about the number of high school graduates that it encounters who cannot read, write, or display basic skills.

In 1990 American industry spent $73 billion on education and training. A recent report indicates that the return on that investment is anywhere between 10 and 100 percent during the first year following the education and training. In 1990, at Boise Cascade, 27 people attended a college computer course designed to produce a more efficient waste program. The cost of the program was $2,500 and the annual savings was $300,000.

Industry is hiring many people from colleges and universities and even from high schools to use as trainers, Mr. Ward continued. Two professors were hired last year from the Idaho National Engineering Laboratory (INEL) at about twice their former rate of pay. An article in the last *Quality Progress Magazine* pointed out that the pay for quality trainers or quality experts ranged from $30,000 to $120,000 per year.

Boise Cascade, like many other companies, develops courses for its own employees and offers these same courses to their spouses and dependents. The company has offered courses in English, basic Spanish, basic math, and sign language. The company hires the hearing impaired, and because employees were unable to communicate with the new hires, Boise Cascade offered a sign language course. All employees attend these classes on their own time. Seventy percent of the people at the plant are enrolled in a college level course that deals with plant issues such as principles of management, statistical process control, basic computer, quality issues, and many other subjects.

Industry attempts to work with colleges and universities to make the college curriculum more compatible to the needs of industry, but because of the perceived differences between the purposes of the two, they cannot seem to get together to accomplish this task, Mr. Ward observed.

Industry today, he concluded, does not want people to work harder, but to work smarter. According to Mr. Ward, everyone has intellectual abilities that can be expanded, and industry is committed to accomplishing this in order to make their employees into better workers.

Linda Langer

Linda Langer[22] stated that the job tasks in the Ore-Ida factory range from sorting, specking, and trimming defects in potatoes, to highly technical tasks requiring computer skills, math, and excellent reading and problem-solving skills. The largest percentage of plant workers are Hispanics and a high percentage of them have been there for 10, 15, 20, and even 30 years. The company has formed a partnership with the College of Southern

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21 Cecil Ward works in education and training for the Boise Cascade Company in Burley, Idaho, and is also a full-time instructor at the College of Southern Idaho. He has also worked in education and training for J.R. Simplot and Ore-Ida Foods, both major producers of frozen foods in Idaho.

22 Linda Langer works in education and training for Ore-Ida Foods in Burley, Idaho. Ore-Ida Foods, a producer of frozen potato products, employs about 1,100 people.

Idaho to provide General Education Development (GED) services on site. The company reimburses employees for the actual cost of the GED testing and provides a cash bonus at the completion of the program. The director of the program, Bob Stern, is a former educator in the Idaho school system.

Ms. Langer spoke of outcome-based education. The factory operates because the workers can successfully operate the machines. They can successfully vary inputs and procedures to provide an output that meets the requirements of the customers. The employees are encouraged to communicate among themselves and with their supervisors to improve the process. These are all measurable objectives. Ore-Ida believes that it can train people to perform tasks, but wonders if public education can develop objectives that will motivate individuals to complete the necessary classes that will enable them to enter the work force and be productive. In order to curb the dropout rate and enable students to be motivated, Ms. Langer stated that they must possess a feeling of security, a feeling that education will make their lives better, that schooling is fun, and that it parallels their culture rather than defies it.

Ms. Langer questioned the salary standards that the teaching profession accepts and referred to them as deplorable. She stated that parents, especially Hispanic parents, need to feel welcome in the school environment. They must be made to feel that the school is more than just a place where they send their children while they go to work. Industry recognizes shortcomings in public education and is providing skills training on site to develop employees into productive workers. It is apparent that students need to stay in school, she stated. American industry recognizes that parents and students need to become more accountable for their education. Partnerships must be developed between children and parents, between parents and employers, and between employers and schools so that a comprehensive, mutually beneficial education system can be developed, she noted.

Judy Duncan

Judy Duncan[23] said that the overall prison population in Idaho is approximately 12 percent Hispanic, (or 237 inmates), but in the prison school the Hispanic population represents from 38 to 50 percent of the class enrollment. About 81 percent of the Hispanics at the institution have dropped out of public school, and they test at the 6.5 grade level, about three grade levels below the general prison population.

Ms. Duncan stated that when she first arrived at the institution, very few Hispanics enrolled in classes. She discovered that one or two men in the prison's Hispanic community controlled the others and permission to attend school had to be given by these individuals. By working with these leaders and stressing the importance of education, she was able to convince them to allow the others to attend the school. They now earn GEDs, high school diplomas, and complete the vocational training available to them. Inmates go through the computer literacy program and take advantage of all educational opportunities available at the institution. People in prison are warm, reasonably safe, and adequately nourished. Their basic needs are taken care of, so they can expend their energies on things like education and they do well when they devote their time and energy to learning.

Education also affects recidivism. General population recidivism is 40 percent, while among those who receive their high school diploma, it is only 13 percent, she noted.

Ms. Duncan stated that if corrections officers can motivate individuals to stay in school long enough to get a high school diploma, they become different people and do not come back to prison.

Ms. Duncan concluded by observing that over the past 9 years, the prison population has doubled, and that over the past 2 years her school population has also doubled. Idaho has built two new institutions in the past 2 years, and Ms. Duncan feels that the State legislature did not see fit to fund prison education any better than it funded public education in general.

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23 Judy Duncan is the school supervisor at the Idaho State Correctional Institution and has been employed at the institution for 9 years.

Chapter III

Summary

At the May 15, 1991, forum in Twin Falls, information was provided by a diverse representation of educators, industry training experts, and private citizens. The Advisory Committee was told that, despite a consent decree, problems of Hispanic students in public education were not diminishing and that their housing and employment problems add to this plight. The Advisory Committee was particularly concerned about the lack of an independent monitoring component for the consent decree.

Several of the presenters stated that additional funds are needed to support necessary educational programs for all students and particularly English-language-deficient Hispanic students. Presenters agreed that bilingual staff at all levels is critical if Hispanics are to benefit from the educational system.

Finally, most presenters emphasized that industry today needs a better educated, trained work force and believed that it is an economic necessity that all young people be educated to their maximum potential if the State is to remain competitive.

The Advisory Committee is seriously alarmed by the continued excessive dropout rate of Hispanic students in the public schools. The Committee believes that existing statistics are disturbing and indicate an unacceptable situation. The level of concern expressed by the presenters indicated that an emergency response is required and that the Governor, appropriate legislative committees, and the State department of education should immediately convene a task force to develop a concrete plan of action.

Failure to act promptly to correct these inequities will result in the denial of equal educational opportunities and an education system unable to provide the State's growing economic and industrial base with a trained and qualified work force for the future.

The presenters suggested a number of recommendations that they believe can assist in confronting the educational problems. The Advisory Committee lists these recommendations as an aid for those committed to progressive action.

A Summary of Recommendations Proposed by Persons Appearing Before the Idaho Advisory Committee

- That the State develop a system which will track students over their school career to determine the exact dropout rate of Hispanic students in Idaho.
- That the Idaho Minority and At Risk Student Scholarship Act be funded at a level appropriate to the needs of Hispanic students.
- That partnerships be developed between educational systems, industrial councils, and Federal program grantees.
- That parents and students need more complete information on the content of vocational programs and their relationship to the world of work.
- That career information be disseminated to students at as early a level as possible.
- That the State fund a pre-school program modeled after Head Start to serve Hispanic parents and children who are not covered by federally funded preschool programs.
- Beginning in kindergarten, all students should be taught a foreign language and that where the Hispanic school population of a district is 5 percent or higher, that language should be Spanish.
- In school districts where the Hispanic student population is 5 percent or higher, a detailed Hispanic parents involvement plan that promotes open and continuous communication between parents, teachers, and school administrators be developed, and that school principals be the chairpersons of the committee formulated to conduct this program.
- That staff who use a second language to communicate with students and parents be compensated for that additional skill.
- That a scholarship program be created for bilingual aides to assist them in becoming certificated teachers and counselors.
- That funding for adult education be increased to allow for a major increase in English as a second language classes.
- That cultural awareness be included in teacher training programs and in-service work shops for teachers presently in the classroom.
- That colleges and universities in Idaho increase the number of Hispanics on their staffs and on their advisory committees.
- That year-round schools become the norm for all students.
- That ungraded primary schools replace the present graded system.
- That a telephone be placed in each classroom so that teachers can communicate with parents and service providers.
- That classroom teachers be appointed to all State committees whose work impacts on the education process.
- That transitional bilingual programs be developed wherever non-English-speaking students are identified.
- That statewide conferences be conducted for public education personnel that could assist them in learning about Hispanics and their culture.
- That classroom teachers learn to use techniques in the classroom that will assist them in teaching subjects such as cultural differences and racial differences.
- That the colleges and universities in Idaho adopt an institutional position with regard to fostering and respecting diversity and to publicize that position to all members of its constituency.
- That society redefine what a student should acquire during his or her public school career in order to contribute to society in a positive manner.
- That public education, and especially at the college and university level, develop a strong partnership with industry to assure a well-educated, competent work force.
- That schools increase the number of student counselors at all high schools.

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Appendix A

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

IDAHO MIGRANT COUNCIL, INC., et al., Plaintiffs, v. BOARD OF EDUCATION and REGENTS OF UNIVERSITY OF IDAHO; CHERYL HYMAN, A. L. ALFORD, JR., E. L. MILLER, JANET HAY, JOHN W. SWARTLEY, M.D., J. CLINT HOOPES, LENO D. SEPPI, D.D.S., JERRY EVANS, ex-officio member, individually and in their official capacities as members of the State Board of Education; JERRY EVANS, individually and in his official capacity as Superintendent of Public Instruction; the State Department of Education, Defendants.	CIVIL NO. 79-1068 CONSENT DECREE

Plaintiffs and defendants have entered into a Settlement Agreement and Stipulation for Dismissal dated February 23, 1983, and incorporate this document as Exhibit A to this Consent Decree.

Exhibit A embodies their full agreement to resolve the dispute between the parties by implementing a mutually acceptable statewide program designed to protect the rights

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of limited English proficiency (LEP) children to an equal educational opportunity.

Parties have elected to settle the action prior to certification of the class and prior to notifying the class of the pending action. The following plaintiffs may be lawfully bound to the Settlement Agreement and Stipulation for Dismissal: IDAHO MIGRANT COUNCIL, a private not-for-profit corporation under the laws of the State of Idaho, an organizational plaintiff that exists to improve conditions for migrant families in the State of Idaho, and that has as one of its main objectives, improvement of educational opportunities for its membership constituency. RAMIRO and MANUELA VALDEZ, who brought this action as guardians ad litem for their minor children Ramiro Jr., San Juanita, Dora Elia, and Rolando. The above-named plaintiffs have consented to this agreement. Plaintiff Maria Paz (Garcia), guardian ad litem for her minor daughter Angelica Garcia, has no case or controversy against the defendants as Angelica is no longer a student in the Idaho school system. Extensive efforts to locate the other named plaintiffs have proven unsuccessful, and although they have been advised by letter of the proposed settlement, they have failed to contact their attorneys with either approval or disapproval of the agreement.

By entering into this Consent Decree, the defendants do not admit to, nor has the court made any determination that there is or has been violation of any law, right, rule, or regulation.

The parties have agreed to this settlement and entry of a Consent Decree in order to terminate this litigation and in a good faith effort to resolve the differences between the parties. No findings of any kind have been made or issued by this court substantiating any of the allegations made by the plaintiffs.

The parties have agreed that the implementation of the statewide Monitoring Plan and compliance with the reporting requirements will resolve the controversy presented to the court in this action.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. The court has determined that it has jurisdiction over the parties and the subject matter. Jurisdiction is based upon 28 U.S.C. § 1343. Venue is proper in this court.

2. Defendants shall implement the Monitoring Plan to ensure equal educational opportunity to LEP children in the State of Idaho, which can presently be found in its entirety in Exhibit A to this Consent Decree, Paragraph 1.

3. Defendants shall begin implementation of the monitoring system on a statewide basis beginning September 1983.

4. An annual report of implementation of the plan statewide and the Monitoring Plan as provided for in Exhibit A shall be filed with the State Department of Education at its office in Boise, Idaho, on or before August 1, 1984, and a like annual report on or before August 1st each year hereafter, which report will be public information, with copies of the report to be given or mailed to any interested parties so requesting the same. Such reports, in addition to information on implementation of the plan and monitoring of the plan, shall contain all vital statistics of the implementation of the plan, including summaries of data collected from and submitted by each district enrolling LEP children pursuant to the Monitoring Plan, IV Reporting Requirements. Such annual report shall also contain an evaluation of the effectiveness of both the Monitoring Plan statewide and the local district's programs in achieving the goals of the plan to provide LEP children with equal educational opportunity.

5. This Consent Decree and its terms shall be a final disposition of this action. In the event there arises a dispute as to its terms as between the parties to this action concerning this Consent Decree, its application, or

compliance with its terms, the parties, through their counsel, shall make every good faith effort to resolve the dispute informally among themselves. Either party may apply to the court for enforcement of the decree's provisions only after the attorneys have fully exhausted all possibilities for resolution of their dispute and have documented and certified all efforts toward the resolution of the dispute. Upon the filing of such application, together with documentation and certification, the court may allow for proper response, and then in the court's discretion will grant or partially grant or deny such petition or application to reopen.

DATED this 7 day of March, 1983.

HAROLD L. RYAN
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

U. S. DISTRICT COURT
DISTRICT OF IDAHO
Filed at ___ M.
FEB 23 1983
JERRY L. CLAPP, Clerk
By _____ Deputy

IDAHO MIGRANT COUNCIL, INC., et al.,	
Plaintiffs,	Civil No. 79-1068
vs.	SETTLEMENT AGREEMENT AND STIPULATION FOR DISMISSAL
BOARD OF EDUCATION, et al.,	
Defendants.	

WHEREAS, Idaho Migrant Council, Inc., et al., commenced this action on April 11, 1979, seeking an injunction and declaratory judgment that the defendants are obligated "to devise and cause to be implemented in each school district with limited English proficiency students, a uniform, comprehensive and appropriate program of instruction which ensures equal participation by all such students in the public school system"; and

WHEREAS, the district court, on September 18, 1979, granted defendants' motion for summary judgment of dismissal on the basis that defendants were not proper parties to the action;

WHEREAS, the plaintiffs appealed said dismissal and the Ninth Circuit Court of Appeals reversed the trial court's decision on June 5, 1981, ruling that the defendants were empowered under state law and required under federal law to

ensure that needs of students with limited English language proficiency are addressed. The Court of Appeals, without reaching any conclusions as to whether or not the State, through its educational agencies, was in compliance with the Equal Education Opportunities Act of 1974 and VI Civil Rights Act of 1964, remanded the matter to the district court for the purpose of receiving evidence regarding the educational needs of students with limited proficiency in English, and the nature of the programs carried on that address those needs, in order to determine whether federal requirements are being met; and

WHEREAS, plaintiffs and defendants have agreed to settle this action prior to certification of the proposed class without trial or adjudication of any issue of fact or law except as previously determined by the Ninth Circuit Court of Appeals. This Stipulation does not constitute evidence or an admission with respect to any issue, and in entering into this settlement, defendants do not admit, and expressly deny, that they have violated any provisions of applicable law or that any program carried on by educational agencies or school districts of the state of Idaho is not adequate to meet the needs of LEP students, and further state that they enter into this settlement solely in order to avoid the burden and expense of protracted litigation; and

WHEREAS, defendants admit to jurisdiction of this court with respect to the subject matter of this action and of the parties;

NOW THEREFORE, without trial or adjudication of any issue of fact or law raised by the Complaint herein, and in full settlement of all these causes of action and complete resolution of the entire dispute of the named party plaintiffs and defendants, the parties agree as follows:

1. Defendants agree to implement a plan to ensure that the needs of limited English proficiency students are addressed in accordance with the following POLICY STATEMENT and monitoring system:

POLICY STATEMENT

The Idaho State Board of Education (SBE) and the Idaho State Department of Education (SDE) recognize that helping Idaho students continually progress in their mastery of the English language is an integral part of the education process. In achieving this kind of progress, schools routinely have to deal with a variety of language and language-related problems and deficiencies manifested by students. In some instances this requires the establishment of special programs to provide the help needed by students. It also requires the State Department to provide supplementary assistance

in developing, implementing and monitoring such programs. This is the case when schools enroll students of limited English proficiency (LEP).

All students, including LEP students, represent a broad range of abilities and interests. For this reason student progress alone cannot serve as the only criterion for the placement and retention of students in special programs for LEP students; neither can it be the only criterion used to judge the success of a school program. Schools are required to make a reasonable effort to address the special language deficiencies of LEP students, but they quite obviously cannot guarantee the success of every individual student in meeting pre-specified criteria of English language proficiency. In supervising the efforts of local school districts to address the special problems of LEP students, the SBE/SDE will consider the reasonableness of the districts' programs as well as their success. Moreover, schools will not be held to an indefinitely extended responsibility for individual students in programs which are otherwise successful in alleviating the language deficiencies of LEP students.

The monitoring system which will be implemented in Idaho to ensure compliance by local districts with federal law will include:

I. Identification of Limited English Proficiency Students

A. Within two weeks following commencment of the school year, or when a student first enrolls in the district, students should be identified as potential LEP through appropriate screening and teacher observation. Following an initial identification of a potential LEP student, the district will:

1. Conduct a home language survey in English and Spanish, requesting that parents indicate whether a language other than English is spoken in the home.

2. If a language other than English is spoken in the home, or if the survey is not returned within two weeks, the student will be administered a language dominance test within the following two-week period to determine proficiency.

B. The SDE will provide a list of approved or recommended language dominance tests to all school districts enrolling LEP students. LEP students are

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defined as those children who do not have the clearly developed English language skills necessary to receive instruction in English.

C. Where no tests are available to assess the language dominance of students, locally developed tests may be administered to determine the deficiencies.

D. Any school district which does not have LEP students enrolled will certify that fact to the SDE under the signature of the superintendent of schools or the chairman of the board of trustees.

E. In districts enrolling students eligible for services under the Migrant Education Program, specialists from the Migrant Education Resource Centers (MERCS) will provide technical assistance.

II. District Plan for Meeting Needs of LEP Students

Provision of Services to LEP students. Students who are of limited English proficiency are entitled to instructional programs that lead to proficiency in English. Each school district which identifies LEP students will submit a plan for meeting the needs of those students which is designed to enable the LEP student to participate in the standard curriculum of the school within a reasonable period of time after

enrollment. Districts may discharge this obligation by implementing programs designed to keep LEP students at grade level in areas of the curriculum by providing instruction in their native language at the same time that an English language development effort is pursued, or by focusing first on the development of English language skills and then later providing students with compensatory and supplemental education to remedy deficiencies in other areas which they may develop during this period. This plan could be a part of the application for Chapter 1, ECIA or Chapter 1, Migrant, ECIA, if the students are eligible under those programs. The plan will include:

A. Instructional procedures to be followed, i.e., group instruction, resource teacher, tutor, etc.

B. Evaluation to be used to measure the progress of the students in the mastery of the English language for purposes of mainstreaming.

C. The State Department of Education will disseminate instructional program models to all school districts enrolling LEP students and will provide technical assistance in connection therewith. These models will be selected from

the catalog of exemplary programs, Educational Programs that Work, and includes such models as the Early Prevention of School Failure, the Kamehameha Language Instruction Project, the Bilingual Education Resource Series for Second Language Learners, and the ESL Survival Kit. The above models are illustrative only and not intended to be limiting. In all cases the model most useful to the particular circumstances and the needs of the LEP student will be used.

III. Program Monitoring

A. At least once during each year SDE personnel will monitor the implementation of district plans to determine the extent to which a district is complying with its plan.

B. A monitoring form developed by the SDE will be used during this on-site visit. Following the visit, an exit conference will be held at which time a copy of the monitoring form will be left with the school district. Within 30 days following the exit conference, a finalized copy of the monitoring form, along with suggestions for program improvement and commendations concerning the program will be

forwarded to the school district. A copy of the monitoring form will be retained in the files of the SDE for five years.

C. If an on-site visit indicates that the district has not implemented the plan as submitted under either Chapter I of the Education Consolidation and Improvement Act, or Chapter I, Migrant, funds will be withheld until the district is in compliance, after notice and a reasonable opportunity to rectify the deficiency.

IV. Reporting Requirements

A report on the program in a form prescribed by the SDE will be submitted annually within 30 days of the end of the fiscal year (June 30). This report will include:

A. Total number of children participating.

B. Progress made by students enrolled in the program.

C. Number of students exited from the program and the criteria upon which this decision was made.

D. Proposed changes, if any, for the subsequent year.

2. The defendants agree to implement the monitoring system on a statewide basis beginning September, 1983.

3. Neither party, by entering into this STIPULATION, waives any right to costs, disbursements, and reasonable attorneys' fees arising out of this action; and both parties reserve the right to contest any application for such.

4. Plaintiffs and defendants hereby waive the entry of findings of fact and conclusions of law under Rule 52 of the Federal Rules of Civil Procedure, and consent to the entry by the court of a final judgment in accordance with paragraph 6 hereof.

5. No representations or promises of any kind, other than as contained in this STIPULATION have been made by either party as inducement to enter into this STIPULATION or to consent to the entry of the judgment.

6. That named plaintiffs' Complaint and all causes of action therein may be dismissed with prejudice after approval by the court of this agreement, and upon its entry of a decree which contains the policy statement and monitoring system set forth herein, together with such other terms as this court may deem appropriate. Said decree will not be entered until the parties have had an opportunity to submit and argue their proposal therefor, or have submitted an agreed upon decree for the court's approval.

DATED Feb 23, 1983

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DATED 2/23/83

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DATED 02/23/83

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